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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,609	05/30/2001	Kuniyoshi Konishi	Q64588	5525
7590	04/28/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			STERRETT, JONATHAN G	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/866,609	KONISHI, KUNIYOSHI	
	Examiner	Art Unit	
	Jonathan G. Sterrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 May 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-15 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Summary

1. Claims 1-15 are pending in the application. The instant application deals with a management system for barber and beauty shops. More specifically, the invention deals with providing a system for managing barber and beauty shops by providing an system that tracks how much time is spent cutting hair through an automated system for printing tickets which are then received by the hairdresser to authorize them to begin hairdressing. The system provides a way to track how much time that the hairdresser is spending cutting hair rather than just by tracking time as scheduled in appointments. The system also provides a way to capture and track demographic information to aid the management office in developing marketing plans.

Specification

2. The specification is objected to because it appears to be a literal translation out of the Japanese language and is replete with idiomatic and grammatical errors. For example beginning in line 3 of "Related Art Statement", the specification reads "**that a barber or beautician oneself individually make a business**" and beginning in line 2 of paragraph 2 "**have been operated substantially in the form that remains unchanged**"; line 3 of paragraph 2 "a customer is called in order arrived, sit on a chair for haircutting". Furthermore, Figure 7 reads "**Keep your ticket to have your haircut**" and "**You will not have your haircut if you loose the ticket**".

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding **Claim 1**, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

6. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "**business consignment organ**" in **Claim 1** is used by the claim to mean "**network server**", while the accepted meaning is "**a musical instrument or body part being sold on a consignment basis by a business.**" The term is indefinite because the specification does not clearly redefine the term.

7. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. There are no clearly and expressly recited structural system elements. It is not clear what the structural elements are given that the term 'package management' is used.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by the ACCS Salon Management System Software product as disclosed in the following documents:**

Web.archive.org, accs-salon.com, "ACCS Salon Management System Specifics", January 29, 1999, pp.1., hereafter referred to as **Reference A**.

Web.archive.org, accs-salon.com, "ACCS Salon Management System Windows on Productivity", January 29, 1999, pp.1-2., hereafter referred to as **Reference B**.

Regarding **Claim 1**, ACCS discloses:

A management system for barber and beauty shops characterized in that a plurality of barber and beauty shops, a business consignment organ, a management head office and owners are connected through a communication network

Reference A page 1 paragraph 1 line 5, network version of salon management system is available. The network version connects a plurality of barber and beauty shops, a business consignment organ and a management head office and owners through a communication network.

so as to make a package management of sales information, staff information, customer information and the like of the shops.

Reference B page 1 paragraph 1 line 1-3, client information, i.e. customers information.

Reference B page 1 paragraph 6 "Scheduling" contains staff information regarding their service schedules.

Reference B page 2 paragraph 3 "Management Reports" contains sales and performance information.

Regarding **Claim 2**, ACCS discloses:

wherein said staff information includes the attendance time and haircut time of the staff.

Reference B page 1 paragraph 6 "Scheduling" contains staff information regarding their service schedules including appointments to cut hair and time off and vacations.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 3-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over ACCS in view of Mikal's SMS III software product.

SMS III as described in the following documents:

Web.archive.org, mikal.com, "SMS III Options", July 1997, pp.1-6., hereafter referred to as **Reference C**.

Web.archive.org, mikal.com, "SMS III Platform System", July 1997, pp.1-2., hereafter referred to as **Reference D**.

Regarding **Claim 3**, ACCS teaches capturing customer information but does not teach:

wherein said customer information includes the sex distinction, age and classification of visit of the customers.

Mikal teaches:

wherein said customer information includes the sex distinction, age and classification of visit of the customers.

Reference C page 2 paragraph 1 line 1-6, demographic tools captures customer information including sex, age, location and type of visit.

Mikal teaches that using customer demographics improve profits by better focussing marketing efforts.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of ACCS to include the sex, age and visit classification, as taught by Mikal, because it would enable the business using the salon management system to increase profitability.

Regarding **Claim 4**, ACCS teaches providing salon scheduling (Reference B page 1 paragraph 6) and tracking client information (Reference B page 1 paragraph 6) but does not teach:

wherein said sales information is transmitted from a payment machine of a haircut ticket vendor disposed in a reception of each shop.

Mikal teaches:

wherein said sales information is transmitted from a payment machine of a haircut ticket vendor disposed in a reception of each shop.

Reference D page 1 line 19-20, various work ticket information is printed and used to match employee requirements, ie. to provide detailed instructions on what customer has ordered. POS work ticket recall allows receptionist to recall details of work ticket on checkout to determine how much the customer has to pay.

Examiner also takes Official Notice that printing sales information on a ticket in a receptionist area is a concept that is old and well known in the art of services. One well-known example is the purchase and use of tickets at a movie theater, where tickets are

purchased in the front of the theater and then given to an attendant prior to entering the actual theater. This concept provides control between those who are purchasing tickets and those who are receiving the service so as to separate out the receiving of the service and the receiving of the funds for the service for financial control purposes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of ACCS regarding providing a salon management system with providing a ticket printing and ticket redeeming approach, as taught by Mikal, because it would provide proper financial control between the receiving of funds and the dispersing of a service.

Regarding **Claim 5**, ACCS teaches a salon management system, but does not teach:

wherein said staff information and customer information are input from an information input terminal device disposed in the vicinity of a hair cutting chair of each shop.

Mikal teaches:

wherein said staff information and customer information are input from an information input terminal device disposed in the vicinity of a hair cutting chair of each shop.

Reference E page 1 paragraph 4 line 6-9, computer terminals are installed throughout the salon in the vicinity of hair cutting chairs of the shop. Employees can

input their schedule information at these terminals, thus reducing the load on the receptionist. Employees can also input customer information into these terminals regarding the work ticket they are performing for a particular customer.

Mikal teaches that dispersing the terminals throughout the shop promotes efficiency by allowing employees convenient access to enter their own timecard information and customer information from work tickets that are generated for individual customers.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of ACCS regarding providing a salon management system to include being able to input customer and staff information from an information input terminal device, as taught by Mikal, because it would improve efficiency and provide convenience to employees who would be able to input information from terminals in the vicinity of their work stations.

Claim 6 recites limitations already addressed by the rejection of **Claim 3** above, therefore the same rejection applies.

Claims 7-9 recite limitations already addressed by the rejection of **Claim 4** above, therefore the same rejection applies.

Claims 10-15 recite limitations already addressed by the rejection of Claim 5 above, therefore the same rejection applies.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following web.archive.org webpages detail various beauty salon software management packages:

Web.archive.org, ezwaysw.com webpages of 10-9-1999, "DOS program descriptions, Windows program descriptions, Overview of E-Z Way Salon Software, Home Page, Hardware and Accessories".

Web.archive.org, ezwaysw.com webpages of 4-29-1999, "Appointment Book ezappt.htm, Releases in Version W1.2".

Web.archive.org, mikal.com webpages of 7-3-1997, "Return on Computer, Salon Advertising, Salon Policy, Newsletter, Screenshot1, SMS IV Press, Salon Promo".

Web.archive.org, salonpro.com webpages of 2-8-2000, "Prices".

Web.archive.org, salonpro.com webpages of 4-20-2000, "Salon Lite".

Web.archive.org, salonpro.com webpages of 1-25-1999, "Classic Computer Systems".

Web.archive.org, milanosystems.com webpages of 11-04-1999, "Beauty – Milano Systems – Salon Account Manager".

Web.archive.org, milanosystems.com webpages of 1-11-2000, "Beauty Reports – Milano Systems – Salon Account Manager".

Web.archive.org, millresources.com webpages of 1-25-1999, "Salon Manager Pro, salon software Management software, POS software, point of sale software".

Web.archive.org, accs-salon.com webpages of 10-9-1999, "Accs Salon Management Balance Cash page, Appointments page, Point of Sale page, Client History page, Client page".

Web.archive.org, accs-salon.com webpages of 11-17-1999, "Accs Salon Management Marketing page, Tanning page".

Web.archive.org, accs-salon.com webpage of 3-9-2000, "Accs Salon Management Stylist page".

Web.archive.org, accs-salon.com webpages of 1-29-1999, "Accs Salon Management System FAQ".

This US Government article deals with the difficulty associated in measuring actual labor productivity in beauty salons:

Brand, Horst; Ahmed, Ziaul, "Beauty and barber shops: the trend of labor productivity", March 1986, Monthly Labor Review, US Bureau of Labor Statistics, pp.1-26.

The following article details the development of software for retail use.

BusinessWire, "Three software vendors announce alliances with NCR at NRF show", Jan 1991.

The following US Patents or Patent Applications detail various inventions associated with POS gathering of customer information and preference information for use in marketing activities.

US 5566327 by Sehr discloses a computerized theme park information management system utilizing partitioned smart cards and biometric verification – this patent provides the ability to collect customer information about buying patterns in a theme park.

US 5642485 by Deaton discloses a method and system for selective incentive point-of-sale marketing in response to customer shopping histories – this invention allows management to gather customer information based on their shopping histories for targeted marketing.

US 5687322 by Deaton is a refinement of his above patent – providing targeted marketing information to customers.

US 5832457 by O'Brien discloses a method and apparatus for selective distribution of discount coupons based on prior customer behavior.

US 6024288 by Gottlich discloses a promotion system including an ic-card memory for obtaining and tracking a plurality of transactions.

US 6119933 by Wong discloses a method and apparatus for customer loyalty and marketing analysis.

US 6334108 by Deaton discloses a method and system for selective incentive point-of-sale marketing in response to customer shopping histories.

US 20010018660 by Sehr discloses an electronic ticketing system and methods utilizing multi-service visitor cards.

US 20020002485 by O'Brien discloses a method and apparatus for selective distribution of discount coupons based on prior customer behavior.

US 5832456 by Deaton discloses a system and method for weather adapted, business performance forecasting.

US 5974396 by Anderson discloses a method and system for gathering and analyzing consumer purchasing information based on product and consumer clustering relationships.

US 6119101 by Peckover discloses intelligent agents for electronic commerce to analyze and aid in making purchasing decisions by customers.

US 6216129 by Eldering discloses an advertisement selection system supporting discretionary target market characteristics.

US 6298348 by Eldering discloses a consumer profiling system.

US 20010032115 by Goldstein discloses a system and methods for internet commerce and communication based on customer interaction and preferences.

US 20020072955 by Brock discloses a system and method for performing market research studies on online content.

US 20020194058 by Eldering discloses consumer profiling.

US 20020194056 by Summers discloses a management training simulation method and system.

US 6584447 by Fox discloses a method and computer program product for weather adapted, consumer event planning.

US 20030191683 by Bailey discloses a market determination system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The department's fax number is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 4-20-05



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